

NOTICE – BANK HOLDING COMPANIES

The 2004 Kentucky General Assembly enacted House Bill 292 on April 13, 2004. On April 22, 2004, Governor Fletcher signed the bill into law. This bill reinstates for bank holding companies **only**, the corporation license tax benefits under KRS 136.071 that were eliminated by the *Illinois Tool Works* (ITW) decision. The reinstated benefits apply to tax years for which a corporation license tax return was due without regard to extension on or after April 15, 2004.

House Bill 292 allows a bank holding company as defined in KRS 287.900 to deduct from its taxable capital, the book value of its investment in the stock or securities of subsidiaries that are subject to the bank franchise tax. The investment in subsidiaries subject to the bank franchise tax must be equal to or greater than fifty percent of the bank holding company's total assets. A bank holding company must own more than fifty percent of the outstanding stock of a bank subsidiary in order to claim the deduction for that subsidiary.

A bank holding company that qualifies for the corporation license tax benefits provided by House Bill 292 should deduct the book value of its investment in subsidiaries that are subject to the bank franchise tax from the value of capital stock and reflect the result on line one of Part III of the 2003 corporation license tax return form (form 720). The return should include a schedule that provides:

- (a) The actual value of the bank holding company's capital stock;
- (b) The name of each subsidiary bank that was included in the deduction amount;
- (c) The percentage of stock owned in each subsidiary bank that was included in the deduction amount; and
- (d) The amount of the investment in each subsidiary that was deducted in computing the line one amount.

Please note that a revised 2003 corporation license tax return form will not be provided. The return form for the calendar year ending December 31, 2004 will provide a line for the deduction.

If a bank holding company has already filed a license tax return for the calendar year ended December 31, 2003 and paid license tax based on the ITW decision, a refund may be claimed by filing an amended return that includes a deduction for the amount of the investment in subsidiaries that are subject to the bank franchise tax. Form 720X, amended corporation license tax return should be used. Form 720X is available on the Department of Revenue's web site at www.revenue.state.ky.us/. An amended return requesting a refund should include a schedule that provides:

- (a) The name of each subsidiary bank that was included in the deduction

amount;

- (b) The percentage of stock owned in each subsidiary bank that was included in the deduction amount; and
- (c) The amount of the investment in each subsidiary that was deducted in computing the amended taxable capital amount.

If a bank holding company filed an extension for the calendar year ended December 31, 2003 license tax return with a payment based on the ITW decision, a refund may be requested when the return is ultimately filed. Please follow the return instructions provided in the third paragraph of this notice.

If you have any questions regarding this notice, please contact the corporation income tax branch at 502-564-8139.